

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
December 16, 2003

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:00 p.m., Tuesday, December 16, 2003, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and Thomas G. Shepperd.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

Invocation. Pastor Joe E. Parrish, Seaford Church of Christ, gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Burgett led the Pledge of Allegiance.

**PRESENTATIONS**

**EMPLOYEE RECOGNITION PROGRAM**

Chairman Burgett congratulated Marianne G. Harris for having attained 25 years of service with the County, and then presented her with a 25-year service pin and certificate.

**STORMWATER ADVISORY COMMITTEE**

Mr. Mike Bossie, Chairman of the York County Stormwater Advisory Committee, appeared on behalf of the committee to express appreciation to Mr. Donald Wiggins for his efforts in the development of the Stormwater Advisory Committee. He gave some background on the inception of the committee and then presented Mr. Wiggins with a silver plate in recognition of his outstanding leadership.

**CITIZENS COMMENT PERIOD**

Mr. Carl Loveland, 207 E. Wedgwood Drive, Yorktown, representative of the York County Chamber of Commerce, appeared before the Board to discuss the Chamber's goals and accomplishments during its first year. He stated the Chamber is developing benefits for the County's 4,600 businesses and intends to increase the County's tax base by growing more businesses. He mentioned that all County businesses were on-line, with some businesses having contacts from as far away as Iraq, Italy and China.

Mr. David Mastio, 900 Artisan Avenue, Chesapeake, Virginia, Peninsula Housing and Builders Association (PHBA), reported that County staff had been extremely helpful to the PHBA members. He urged the Board to agree on the Chesapeake Bay Preservation area changes and amendments to the ordinance. He stated the PHBA supports the staff's updated position, and he expressed the importance of keeping the 15-foot separation and cluster development as tools for conservation and providing a choice of a different kind of neighborhood for York citizens.

**COUNTY ATTORNEY REPORTS AND REQUESTS**

Mr. Barnett noted he had attended the Local Government Attorney's Conference in Williamsburg, and stated some of the topics of interest concerned the building maintenance code. He informed the Board that everything seemed to be in place with the Watermen's Museum easements; and as soon as the Museum's representatives sign the documents, they would be recorded. He stated the first warrants had been issued under the new graffiti ordinance and that two suspects had been apprehended. He indicated he will follow the case to see if the Judge has any comments.

### **COUNTY ADMINISTRATOR REPORTS AND REQUESTS**

Mr. McReynolds announced that the swearing-in ceremony for Mr. Bowman and the incumbent Board members would be held on Friday, December 19 at 5:00 p.m. in York Hall, and the Board's organizational meeting would be held on January 6, 2004. He stated construction on the waterfront was moving along as scheduled, including the demolition of the Nick's Restaurant building. He stated he will be bringing the Board an update on the construction progress at the second meeting in January. He stated the term for this Board began on January 1, 2000, and soon thereafter the Board's Goals and Objectives were developed. Some of the goals reach by this Board are as follows: the Board conducted 88 Regular Meetings and 85 Work Sessions since January 1, 2000, with 784 resolutions and 97 ordinances having been adopted. The Board received 27 NACO awards during that time. At the direction of the Board, staff sought alternate revenue sources, resulting in operational efficiencies for 2001-2002 totaling \$17 million dollars. He explained that 1.5 million square feet of commercial and/or retail space had been added in the County, and that a percentage of the total revenues from commercial and business activity has increased from 46 percent to 48 percent. During this time, the Drainage Committee was created; an Office of Economic Development was created; the lighting of athletic fields was accomplished; a waterfront agreement was executed with the Yorktown Trustees; and the development of a Video Services Division, combined with the School Division, was created. The Tabb Wal-Mart opened during 2002, and major utility projects were approved. Mr. McReynolds congratulated the Board on a successful four years.

### **MATTERS PRESENTED BY THE BOARD**

Mr. Zaremba agreed with Mr. Bossie's comments regarding Mr. Wiggins' service to the County. He acknowledged that Mr. Wiggins was a very big part of the Board's decision-making process during these last four years, and Mr. Wiggins was instrumental in the development of the Stormwater Advisory Committee. He then elaborated on some of Mr. Wiggins' additional contributions. Mr. Zaremba then stated the General Assembly will be putting its budget together in the next few months, and he was hopeful that some of the funding would flow back to the counties. He spoke about the joint meeting between the School Board and the Board of Supervisors concerning the proposed school budget that may result in a three million dollar shortfall. He mentioned that the joint meeting was not televised, and he requested that the meeting be televised next year. He then wished all a safe, fun-filled holiday.

Mrs. Noll echoed Mr. Zaremba's comments that Mr. Wiggins had served his constituents well during his term as Supervisor. She then discussed the article that appeared in the Yorktown Crier on the prohibiting of live Christmas trees in condominiums or apartment dwellings. She stated she did not agree with the General Assembly's passing of that bill. She also mentioned the debate taking place on tax reform and offered a website entitled [taxreform.governor.virginia.gov](http://taxreform.governor.virginia.gov) that will enable the public to see how taxes are affected if the proposal is accepted by the General Assembly. She encouraged all citizens to become involved in legislation and to let the legislators know how they feel. She then wished everyone a happy holiday.

Mr. Shepperd stated that he had served on the Drainage Committee with Mr. Wiggins and witnessed his dedication and hard work, and he thanked Mr. Wiggins on behalf of District 5. He commended Mr. McReynolds on his presentation of the Board's accomplishments during the past four years, and explained that the items are approved because of the hard work and diligence of the County Administrator, County Attorney, and the County staff. He thanked the

County Administrator and County staff for allowing the Board to accomplish its job so well. He stated that even through unusual circumstances such as a drought and Hurricane Isabel, York County is still a great place to live. Mr. Shepperd wished all families a safe holiday season, and asked that they remember the troops in Iraq and what they represent – that freedom is not free.

Mr. Wiggins noted this was his last meeting as a Supervisor, and he highlighted some of the Board's accomplishments during his tenure including the purchase of a new ambulance for the Seaford Fire Station, the construction of a new gymnasium at Seaford Elementary School, cleaner ditches, and increased housing opportunities for senior citizens. He expressed his appreciation for Mr. McReynolds, Mark Carter, and many other staff members. He stated he had gotten to know many of the citizens and appreciated their help.

Meeting Recessed. At 7:54 p.m. Chairman Burgett declared a short recess.

Meeting Reconvened. At 8:01 the meeting was reconvened in open session by order of the Chair.

By consensus of the Board, Chairman Burgett re-opened Citizens Comment period.

#### **CITIZENS COMMENTS** (continued)

Mr. John Lochstampfor, 236 Robanna Drive, Seaford, appeared to publicly praise the efforts of Mr. Wiggins. He stated he had met with Mr. Wiggins on problems that affected him specifically and problems with the County in general. He stated Mr. Wiggins listened and showed a genuine concern in correcting problems. He stated Mr. Wiggins had done a far superior job than his predecessors, and he encouraged him to run again during the next election period.

#### **PUBLIC HEARINGS**

##### **AMENDMENT TO YORK COUNTY CODE: CRIMINAL RECORDS HISTORY BACKGROUND CHECKS**

Mr. Barnett gave a presentation on proposed Ordinance No. 03-45 to amend the York County Code to specify that any individual designated by the County Administrator as having authority to request criminal records history background checks on certain job applicants shall be a County governmental employee.

Mr. Shepperd asked how the person to do this would be selected.

Mr. McReynolds explained there are certain positions, such as those working with children, which require criminal background checks. Those positions are designated in the Policy and Procedures Manual, and the department director would be the designated person.

Chairman Burgett called to order a public hearing on proposed Ordinance No. 03-45 which was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND YORK COUNTY CODE SECTION 2-4  
TO SPECIFY THAT ANY INDIVIDUAL DESIGNATED BY THE  
COUNTY ADMINISTRATOR AS HAVING AUTHORITY TO RE-  
QUEST CRIMINAL RECORDS HISTORY BACKGROUND CHECKS  
ON CERTAIN JOB APPLICANTS SHALL BE A COUNTY GOVERN-  
MENTAL EMPLOYEE

There being no one present who wished to speak concerning the subject Ordinance, Chairman Burgett closed the public hearing.

Mr. Zaremba then moved the adoption of proposed Ordinance R03-45 that reads:

AN ORDINANCE TO AMEND YORK COUNTY CODE SECTION 2-4 TO SPECIFY THAT ANY INDIVIDUAL DESIGNATED BY THE COUNTY ADMINISTRATOR AS HAVING AUTHORITY TO REQUEST CRIMINAL RECORDS HISTORY BACKGROUND CHECKS ON CERTAIN JOB APPLICANTS SHALL BE A COUNTY GOVERNMENTAL EMPLOYEE

WHEREAS, York County code § 2-4 was adopted by Ordinance No. O97-29 pursuant to authority granted by virtue of Code of Virginia § 19.2-389 (A) (7) for the purpose of authorizing the County Administrator, or the County Administrator's designee, to request criminal records history background checks on applicants for certain positions in the County employment; and

WHEREAS, the 2003 General Assembly adopted HB 2373, adding Code of Virginia § 15.2-1503.1, which, among other things, required a national criminal history record search by the Federal Bureau of Investigation for certain employees and licensees; and

WHEREAS, the York County Board of Supervisors desires to amend County Code § 2-4 as requested by the Federal Bureau of Investigation in order that a national criminal history records search can be conducted.

BE IT ORDAINED by the York County Board of Supervisors, this 16th day of December, 2003, that section 2-4, York County Code, be and it is hereby amended, to read and provide as follows, such amendment to be effectively immediately:

**Sec. 2-4. Authority to obtain criminal history record information.**

- (a) Whenever in the course of investigations of applicants who have been selected for public employment it is necessary in the interest of the public welfare or safety to determine if the past criminal conduct of the applicant is compatible with the nature of the employment, or when the provisions of this Code require the disclosure of criminal history information by an applicant, or the applicant's employees, in order for some privilege to be granted by the county or when such Code requires a criminal history record check of an applicant, or the applicant's employees, the county administrator or his designee (who shall be a County governmental employee) shall be authorized to obtain the criminal history record of such applicant, or such applicant's employees, from the Virginia Central Criminal Records Exchange or other appropriate sources.
- (b) The county administrator or his designee is specifically authorized pursuant to the provisions of Section 19.2-389 (A) (7), Code of Virginia, to request from the Virginia Central Criminal Records Exchange the criminal history record of any applicant who has been selected for public employment whose anticipated duties or responsibilities would require (i) access to public records or to personal information as defined in Section 2.1-379, Code of Virginia, (ii) accountability for public funds, (iii) access to county supplies, (iv) entry into secured areas outside of working hours, (v) right of entry onto private property, or (vi) child care or assistance to the elderly or disabled. The applicant shall submit to fingerprinting and shall provide the county administrator or his designee with personal descriptive information to be forwarded along with the applicant's fingerprints through the Virginia Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal record history information regarding the applicant.
- (c) The criminal history record information provided in accordance with this section shall be used solely to assess eligibility for public employment or service, or for the permit applied for, and shall not be disseminated to any person not involved in the assessment process. If an applicant is denied employment because of information appearing in his criminal record history, the county administrator or his designee shall notify the appli-

cant that information from the Virginia Central Criminal Records Exchange contributed to such denial.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Burgett  
Nay: (0)

#### BACK CREEK SEWER PROJECT

Mr. Barnett gave a presentation on proposed Resolution R03-188 to declare the Board's intent to enter upon and take certain easements in connection with the Back Creek Sewer Project. He mentioned that several of the deeds included in the proposed resolution had now been received, thereby making this a revised resolution.

Mr. Zaremba asked what the appeal process would be for a property owner who was adamantly opposed to the easement.

Mr. Barnett explained that the citizen could continue their appeal by negotiating with the County, or the County would file a condemnation action that would prompt a trial. He stated the affected citizens were notified of the public hearing through the letter of offer, a follow-up letter, and then another letter that repeats the offer and notifies them of the public hearing.

Mr. Shepperd asked if anyone would be significantly affected by moving a building, a fence, or any other major construction.

Mr. Barnett indicated the maps were included with the Board material, but he had no knowledge of any major impact. He mentioned that some small trees could be affected.

Chairman Burgett called to order a public hearing on proposed Resolution R03-188(R) which was duly advertised as required by law and is entitled:

#### A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON AND TAKE CERTAIN EASEMENTS IN CONNECTION WITH THE BACK CREEK SEWER PROJECT

There being no one present who wished to speak concerning the subject Resolution, Chairman Burgett closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R03-188(R) which reads:

#### A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON AND TAKE CERTAIN EASEMENTS IN CONNECTION WITH THE BACK CREEK SEWER PROJECT

WHEREAS, it is necessary to obtain certain easements in connection with the Back Creek sewer project; and

WHEREAS, for various reasons, the County is not able to obtain from the owners of such property clear title to the interests in real estate necessary, or no agreement has been reached as to the consideration to be paid for the said interests; and

WHEREAS, plats of the interests in real property to be acquired have been prepared by Precision Measurements, Inc., and appraisals of such interests have been prepared; and

WHEREAS, § 15.2-1905 C, Code of Virginia, authorizes the Board to adopt a resolution following a public hearing on the matter declaring its intent to enter and take specified properties, rights-of-way or easements for such purposes as constructing, installing, expanding,

maintaining, or repairing pipelines, meter boxes, pumps, or any other appurtenances to a sewerage disposal and water system.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 16th day of December, 2003, that the Board finds that it is necessary for the protection and preservation of the public health, safety and welfare, and for the timely completion of the Back Creek sewer project, for the County, its officers, employees and agents to enter upon and take the interests in real property described below prior to the initiation of condemnation proceedings.

BE IT FURTHER RESOLVED that the interests to be taken, and the compensation and damages, if any, offered by the County for each are the following, which interests are more particularly described on the plats attached to the Report of the County Attorney dated November 17, 2003, and incorporated herein by this reference:

Tax Map No. 25-208	A permanent utility easement as shown on a plat entitled "Plat of Easement Acquisition From: Margaret Barber, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated July 24, 2003, prepared by Precision Measurements, Inc., and designated as "Permanent Utility Easement Hereby Conveyed to York County, 206 sq. ft." Value offered to Owner: \$50.00.
Tax Map No. 25-189	Permanent utility easements and a temporary construction easement as shown on a plat entitled "Plat of Easement Acquisition From: Margaret Barber, et als, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated August 1, 2003, prepared by Precision Measurements, Inc., and designated as "Permanent Utility Easement Hereby Conveyed to York County, 217 sq. ft.," a "Permanent Utility Easement Hereby Conveyed to York County, 2,390 sq. ft.," and a "Temporary Construction Easement Hereby Conveyed to York County, 2,394 sq. ft." Value offered to Owner: \$1,234.00.
Tax Map No. 25-216	A permanent utility easement as shown on a plat entitled "Plat of Easement Acquisition From: Ronald L. Byrd, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated May 23, 2003, prepared by Precision Measurements, Inc., and designated as "Permanent Utility Easement Hereby Conveyed to York County, 208 sq. ft." Value offered to Owner: \$101.00.
Tax Map No. 25-185B	A permanent utility easement and a temporary construction easement as shown on a plat entitled "Plat of Easement Acquisition From: Diane Teel, et vir, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated August 8, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 1,079 sq. ft.," and a "Temporary Construction Easement Hereby Conveyed to York County, 1,150 sq. ft." Value offered to Owner: \$4,976.00.
Tax Map No. 25-180	A permanent utility easement as shown on a plat enti-

tled "Plat of Easement Acquisition From: Jessie G. Wood Estate, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated May 23, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 203 sq. ft." Value offered to Owner: \$165.00.

Tax Map No. 25-167

A permanent utility easement as shown on a plat entitled "Plat of Easement Acquisition From: Mary S. Sherwood, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated June 16, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 400 sq. ft." Value offered to Owner: \$536.00.

Tax Map No. 25-173A

A permanent utility easement as shown on a plat entitled "Plat of Easement Acquisition From: Kent A. Stevens, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated October 1, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 200 sq. ft." Value offered to Owner: \$573.00.

Tax Map No. 25-157A  
Tax Map No. 25-158

A permanent utility easement as shown on a plat entitled "Plat of Easement Acquisition From: Tomi Rachelle McNamara, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated August 5, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 78 sq. ft.," and a "Permanent Utility Easement Hereby Conveyed to York County, 150 sq. ft." Value offered to Owner: \$423.00.

Tax Map No. 25-181

A permanent utility easement as shown on a plat entitled "Plat of Easement Acquisition From: Shirley F. Lemonds & Linda F. Ryan, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated May 29, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 200 sq. ft." Value offered to Owner: \$250.00.

Tax Map No. 25-182

Permanent utility easements and temporary construction easements as shown on a plat entitled "Plat of Easement Acquisition From: Shirley F. Lemonds & Linda F. Ryan, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated August 1, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 122 sq. ft.," a "Permanent Utility Easement Hereby Conveyed to York County, 199 sq. ft.," a "Temporary Construction Easement Hereby Conveyed to York County, 2,431 sq. ft.," a "Temporary Construction Easement Hereby Conveyed to York County, 496 sq. ft.," and a "Temporary Construc-

tion Easement Hereby Conveyed to York County, 1,148 sq. ft." Value offered to Owner: \$437.00.

Tax Map No. 25-184

A permanent utility easement and two temporary construction easements as shown on a plat entitled "Plat of Easement Acquisition From: Ernest D. Lemonds Estate, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated August 8, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 673 sq. ft.," a "Temporary Construction Easement Hereby Conveyed to York County, 313 sq. ft.," a "Temporary Construction Easement Hereby Conveyed to York County, 42 sq. ft." Value offered to Owner: \$1,046.00.

Tax Map No. 25-185C

A permanent utility easement and a temporary construction easement as shown on a plat entitled "Plat of Easement Acquisition From: Shirley F. Lemonds & Linda F. Ryan, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated August 8, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 1,192 sq. ft.," and a "Temporary Construction Easement Hereby Conveyed to York County, 597 sq. ft." Value offered to Owner: \$125.00.

Tax Map No. 25-178

A permanent utility easement as shown on a plat entitled "Plat of Easement Acquisition From: William D. Robinson, et ux, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated May 29, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 311 sq. ft." Value offered to Owner: \$103.00.

Tax Map No. 25-177

A permanent utility easement as shown on a plat entitled "Plat of Easement Acquisition From: Kenneth W. Rodney, et ux, To: County of York, Virginia, Project: Back Creek Road Sanitary Sewer Improvements," dated June 23, 2003, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 200 sq. ft." Value offered to Owner: \$95.00.

BE IT STILL FURTHER RESOLVED that the Chairman of the Board of Supervisors, the County Treasurer and the County Attorney are hereby authorized and directed, for and on behalf of the County, to execute certificates to be recorded in the Office of the Clerk of the Circuit Court for York County, certifying the amounts set forth above as the fair value, and damages if any, of the interests to be taken, will be paid the owners in accordance with the provisions of State law and upon order of the Court.

BE IT STILL FURTHER RESOLVED that the County Attorney be, and he is hereby, authorized, if necessary and appropriate, at any time following the date of this Resolution, to institute condemnation proceedings in the name of the Board of Supervisors to acquire title to the interests in the property described above, including, if necessary, any other easements or restrictions that may affect the easements sought to be acquired, and to do all things necessary as a prerequisite thereto.



On roll call the vote was:

Yea: (5) Noll, Wiggins, Shepperd, Zaremba, Burgett  
Nay: (0)

#### AGREEMENT FOR BOUNDARY LINE

Mr. Barnett made a presentation on proposed Resolution R03-197 to authorize the execution of an agreement with James City County to change and/or establish the jurisdictional boundary between the two counties in the vicinity of Newman Road at Skimino Creek. He mentioned that James City County was meeting this evening to discuss the same boundary line agreement. He then explained some of the history in this area, and suggested in the title to the resolution, the word 'adjustment' be taken out so that it reads 'agreement' rather than adjustment. He also wanted to add the language 'for change or establishment of boundary lines' which does not change the substance of the resolution. He then recommended the adoption of proposed Resolution R03-197(R).

Mr. Zaremba questioned the diagram shown and asked how the centerline was established.

Mr. Barnett explained that Barlow's Pond went back to the colonial days, and the centerline for Barlow's Pond was then just an approximation, and what is shown on the tax maps from James City County and York County is the presumed boundary line for the two jurisdictions. He then explained the boundaries to the Board.

Discussion ensued over the identifying names of the pond.

Mr. Barnett stated that for a portion of the boundary there was a historical record dating back in 1654 when the General Assembly said it was the western edge of Skimino Creek. He stated he has been unable to find or have presented to him any surveys made at the time to indicate where Skimino Creek was in 1654.

Discussion continued on the boundary lines.

Chairman Burgett asked Mr. Barnett if the County is just being asked to reaffirm where the boundaries are currently located and have been located for many years in the past.

Mr. Barnett indicated Mr. Burgett was correct.

Mr. Shepperd asked why go through this process if the boundary is already known.

Mr. Barnett explained that this action will establish the shown boundary to be the legal boundary from this day forward.

Chairman Burgett called to order a public hearing on proposed Resolution R03-197(R) that was duly advertised as required by law and is entitled:

A RESOLUTION AUTHORIZING THE EXECUTION OF A VOLUNTARY BOUNDARY LINE AGREEMENT TO ESTABLISH THE CENTERLINE OF A PORTION OF SKIMINO CREEK AS THE COMMON BOUNDARY LINE BETWEEN THE COUNTY OF YORK, VIRGINIA, AND THE COUNTY OF JAMES CITY, VIRGINIA

Mr. Richard Guertin, 108 Devonshire Drive, Williamsburg, appeared to represent the Laurel Lake Waterfront Homeowner's Association in support of the resolution. He stated this boundary had been obvious for the last 100 years, and he requested the Board's approval.

There being no one else present who wished to speak concerning the subject resolution, Chairman Burgett closed the public hearing.

Mr. Zaremba then moved the adoption of proposed Resolution R03-197(R) which reads:

A RESOLUTION AUTHORIZING THE EXECUTION OF A VOLUNTARY BOUNDARY LINE AGREEMENT TO ESTABLISH THE CENTERLINE OF A PORTION OF SKIMINO CREEK AS THE COMMON BOUNDARY LINE BETWEEN THE COUNTY OF YORK, VIRGINIA, AND THE COUNTY OF JAMES CITY, VIRGINIA

WHEREAS, a dispute has arisen concerning the proper location of the boundary line between James City County and York County for a certain distance below the outfall of Barlow's Pond on Skimino Creek; and

WHEREAS, by an act of the Virginia General Assembly adopted in 1654, the western edge of Skimino Creek was established as the boundary line of York County, but uncertainty has arisen whether the present course of Skimino Creek conforms to the location of the creek in former times; and

WHEREAS, it is the desire of this Board to establish the centerline of Skimino Creek for a portion of its length below the outfall of Barlow's Pond as the common boundary line between James City and York Counties.

NOW, THEREFORE, BE IT RESOLVED, by the York County Board of Supervisors this the 16th day of December, 2003, that the County Administrator is authorized to execute a voluntary agreement for change of boundary line between the County of York, Virginia, and the County of James City, Virginia, substantially in conformance with the draft agreement attached to the County Attorney's memorandum of December 1, 2003, establishing the common boundary line between the two jurisdictions to be as shown on a plat entitled "Plat Showing Existing Skimino Creek Centerline Prepared for County of York and James City County" dated February 14, 2003, made by AES Consulting Engineers, such voluntary agreement to be approved as to form by the County Attorney.

On roll call the vote was:

Yea: (5) Wiggins, Shepperd, Zaremba, Noll, Burgett  
Nay: (0)

#### **MATTERS PRESENTED BY THE BOARD** (continued)

Chairman Burgett stated he had attended a special function at the Gallery located in York Hall, and he noted that this year there were 12,941 visitors to the Gallery, approximately 9,000 more than last year. He noted he also had the pleasure of installing the officers of the Historical Committee, and he attended the Senior Center Christmas dinner. He stated he took part in the groundbreaking of the Great Wolf Lodge, which is a \$48 million dollar investment in the County. He mentioned the customer service relations of Cox Communications and emphasized the need for them to work on their customer service skills. He noted the difficulty most people have in speaking with an automated system rather than a person, and he encouraged Cox to be more customer-friendly. He stated that out of 173 meetings of the Board of Supervisors, Mr. Wiggins had attended all of them and had accomplished much. He stated he was a team player and a good friend. He then wished all a safe and happy holiday.

#### **UNFINISHED BUSINESS**

##### **APPLICATION NO. ZT-80-03, YORK COUNTY PLANNING COMMISSION**

Mr. McReynolds noted that as a result of changes in regulations at the state level, it was necessary to amend the Chesapeake Bay Preservation Area regulations. He reminded the Board

that they previously tabled this item in an effort to receive more input from the public and the Peninsula Home Builders.

Mr. Carter stated that staff had meet with the homebuilders association, and the proposed ordinance had now been changed according to the Board's direction. He noted the minor changes were shown on page 7, where the words 'state approved' were inserted. On page 16 the language was changed dealing with the recommended offset from the RPA line to 10 feet, and a new paragraph called 'RPA boundary delineation' was inserted, which indicates construction fencing would be required at an RPA boundary, and permanent signage would be provided along the boundary with the signage to be provided by the County. Mr. Carter recommended the approval of proposed Ordinance No. 03-44(R) and the accompanying proposed Resolution R03-192 that would approve the guidelines to assist in the day-to-day administration of the ordinance.

Discussion followed regarding the necessity to amend the County's ordinance and the requirements dealing with the RPA.

Mr. Shepperd then moved the adoption of proposed Ordinance 03-44(R) that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-80-03,  
YORK COUNTY PLANNING COMMISSION, WHICH PROPOSES  
AMENDMENT OF THE YORK COUNTY ZONING ORDINANCE  
(CHAPTER 24.1, YORK COUNTY CODE) BY REVISING VARIOUS  
PROVISIONS OF SECTION 24.1-372 - EMA - ENVIRONMENTAL  
MANAGEMENT AREA OVERLAY DISTRICT DEALING WITH  
CHESAPEAKE BAY PROTECTION AREA REQUIREMENTS

WHEREAS, the York County Planning Commission has sponsored Application No. ZT-80-03 to allow consideration of various amendments to Section 24.1-372 - EMA - Environmental Management Area Overlay District to incorporate changes made necessary by regulatory and policy guidance adopted by the Chesapeake Bay Local Assistance Board; and

WHEREAS, the Planning Commission has considered these proposed amendments at a work session conducted on October 29, 2003 and at its regular meeting on November 12, 2003; and

WHEREAS, subsequent to conducting a duly advertised public hearing on the proposed amendments in accordance with applicable procedures the Commission has recommended approval; and

WHEREAS, the Board of Supervisors has considered the recommendations of the Commission and, subsequent to conducting a duly advertised public hearing, has determined that the proposed amendments are appropriate and will be consistent with goals established in the Comprehensive Plan and will ensure the consistency of the County's regulations with State-mandated requirements;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 16th day of December, 2003 that it does hereby approve Application No. ZT-80-03 to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to read as follows and to become effective January 1, 2004.

BE IT FURTHER ORDAINED that in addition to any rights as may be vested by virtue of applicable law, any development proposal for which a complete site plan or preliminary subdivision plan has been accepted for review by the Department of Environmental and Development Services prior to the January 1, 2004 effective date of this ordinance shall not be required to comply with the amended provisions adopted herein.

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**Sec. 24.1-372. EMA-Environmental management area overlay district.**

- (a) *Statement of intent.* In accordance with the objectives of the comprehensive plan, the environmental management area overlay regulations are intended to promote the proper use, management and protection of the vast amounts of sensitive and unique lands which contribute to the economy of the region and the environmental quality of the county and especially the Chesapeake Bay.

The effect of these provisions is not necessarily to preclude development or use of such areas but rather to ensure that the types of development permitted by the underlying zoning district will be undertaken with a deliberate and professionally responsible recognition of the particular environmental qualities and conditions of a proposed development site.

Certain portions of this section of the ordinance are enacted under the authority of Section 10.1-2100 et seq. of the Code of Virginia and are intended to implement the requirements of the Chesapeake Bay Preservation Act. The specific purposes of the provisions of this section are to:

- (1) Protect existing high quality state waters;
- (2) Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
- (3) Safeguard the clean waters of the Commonwealth from pollution;
- (4) Prevent any increase in pollution;
- (5) Reduce existing pollution; and
- (6) Promote resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the county.

- (b) *Definitions.* For the purposes of this section, the following terms shall have the following meanings unless the context clearly indicates otherwise:

*Best management practices (BMPs).* A practice, or a combination of practices, that is determined by a state agency or the Hampton Roads Planning District Commission to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

*Chesapeake Bay Preservation Area (CBPA).* Any land designated by the county pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations, (9 VAC 10-20-70 et seq.), and sections 10.1-2107, et seq., Code of Virginia of the Chesapeake Preservation Act, as they may be amended from time to time. The Chesapeake Bay Preservation Area consists of a Resource Protection Area (RPA) and a Resource Management Area (RMA), and Intensely Developed Area (IDA).

*Chesapeake Bay Preservation Area Map (CBPA Map).* A map to be used as a guide that shows the general location of CBPA areas. The map is on file in the office of the zoning administrator and is hereby adopted by reference and declared to be part of this section. The Natural Resources Inventory will determine the exact boundaries of the CBPA.

*Development.* Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, excavating, mining, filling, grading or paving.

*Development review process.* The process for site plan, subdivision, land disturbing and building permit review to ensure compliance with section 10.1-2109, Code of Virginia and the York County Code, prior to any clearing or grading of a site or the issuance of a building or land disturbing permit.

*Floodplain.* All lands which likely would be inundated by floodwater as a result of a storm event of a 100-year return interval.

*Highly erodible soils.* Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula  $RKLS/T$ , where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

*Impervious cover.* A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted aggregate surface.

*Intensely developed area (IDA).* CBPA's where development is concentrated and meets the conditions outlined in 9VAC 10-20-100 and so indicated on the CBPA map adopted by the county and approved by the Chesapeake Bay Local Assistance Board.

*Nonpoint source pollution.* Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land use and development.

*Nontidal wetlands.* Those wetlands, other than tidal wetlands, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the US Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act in 33 CFR 328.3b, as may be amended from time to time.

*Noxious weeds.* Weeds that are difficult to control effectively such as Johnson Grass, Kudzu, and multiflora rose.

*Public Road.* A publicly owned road and the appurtenant structures designed and constructed by the Virginia Department of Transportation.

*Redevelopment.* The process of developing land that is or has been previously developed.

*Resource Management Area (RMA).* That component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. The RMA is contiguous to and 500-foot landward of the Resource Protection Area or the extent of the 100-year floodplain, whichever is greater.

*Resource Protection Area (RPA).* That component of the Chesapeake Bay Preservation Area comprised of tidal wetlands; nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; tidal shores; and a vegetated buffer not less than 100-feet in width located adjacent to and landward of the components listed above and along both sides of any water body with perennial flow. These lands have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts, which may result in significant degradation to the quality of state waters.

*Silvicultural Activities.* Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Section 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under Section 58.1-3230 of the Code of Virginia.

*Tidal shore (shore).* Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

*Tidal wetlands.* Vegetated and nonvegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.

*Water Body with Perennial Flow.* A body of water flowing in a natural or manmade channel year-round during a year of normal rainfall. This includes, but is not limited to, streams, estuaries, and tidal embayments and may include drainage ditches or canals constructed in wetlands or from former natural drainage ways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow.

*Water-dependent facility.* A development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; marinas and other boat-docking structures; beaches and other public water-oriented recreation areas; and fisheries or other marine resources facilities.

*Wetlands.* Includes tidal and nontidal wetlands.

- (c) *Applicability.* The special provisions established in this section shall apply to the following environmental management areas:
- (1) Areas with an elevation of less than four feet above mean sea level;
  - (2) Areas with slopes in excess of 20 percent;
  - (3) Tidal and nontidal wetlands;
  - (4) Areas identified by the Virginia Department of Conservation and Recreation, Division of Natural Heritage in the publication entitled "Conservation Planning for the Natural Areas of the Lower Peninsula of Virginia, Technical Report 93-4," as may be amended from time to time.
  - (5) Areas identified as floodplains;
  - (6) Areas with highly erodible soils;
  - (7) Areas designated by the county as Chesapeake Bay Preservation Areas (CBPA) composed of Resource Protection Areas (RPA), Resource Management Areas (RMA) and Intensely Developed Areas (IDA).
    - a. Such areas are designated, in general, on the CBPA Map, which is hereby adopted and made a part of this chapter by reference. The CBPA Map shows only the general location of the Chesapeake Bay Preservation Areas. It should be consulted by persons contemplating activities within the county prior to engaging in a regulated activity; however, the specific onsite location of the Chesapeake Bay Preservation Areas shall be delineated by the Natural Resources Inventory as required by subsection (f), below.
- (d) *Use regulations.* Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.
- (e) *Policies and Guidelines for Administering Environmental Management Areas.* The zoning administrator shall prepare such policies and guidelines not inconsistent with this chapter as may be necessary to ensure the proper use, management, and protection of the environmental management areas. Such policies and guidelines shall be subject to

approval by the Board of Supervisors, shall be kept on file in the zoning administrator's office and may be amended by resolution of the Board from time to time as conditions warrant. In the event situations arise that necessitate adjustments or supplements to such policies, the zoning administrator may promulgate interim guidelines. Such interim guidelines shall be submitted to the Board of Supervisors within 180 days after establishment and shall stand until the Board actually approves, disapproves or modifies such interim guidelines.

(f) *Natural Resources Inventory requirements.*

(1) Natural resources inventory: A natural resources inventory, prepared and submitted in accordance with the provisions established herein, shall be required for all properties proposed for development.

- a. The inventory shall be prepared and certified by a professional qualified to perform environmental inventories. Evidence of the professional qualifications of the person preparing the inventory shall be submitted as a part of the inventory. In the case of construction of individual single-family detached dwellings, the inventory shall be required; however, professional preparation or certification shall not be required except for perennial stream flow determination or unless professional involvement is deemed necessary by the zoning administrator because of the magnitude of land disturbance or the particular sensitivity of the location. Subdivisions effected through the subdivision ordinance shall comply fully with the terms of this section.
- b. The inventory shall contain a plan sheet that clearly depicts the extent and location of any of the features and areas defined in subsection (c) above. For each feature and area, descriptive information such as slope percents, wetlands classification, soil type, etc., shall be provided.
- c. The applicant is responsible for having a site-specific in-field determination for perennial flow made by a qualified professional. The zoning administrator shall confirm the site-specific in-field perennial flow determination.
  1. For the purpose of determining whether water bodies have perennial flow, a state approved, scientifically valid system of in-field indicators of perennial flow must be used.
- d. The inventory shall also contain a narrative element that describes and defines the relative values of the natural resources defined in subsection (c) above which are found to be present on the site, including flora and fauna.
- e. The exact boundaries of the RPA shall be adjusted, as necessary, based on the site-specific in-field evaluation and the Natural Resources Inventory.
- f. Natural resources inventories shall be submitted to the zoning administrator for review and approval concurrent with the submission of applications for site plans, subdivision plans, land disturbing permits building permits or any other activity that constitutes development. The zoning administrator shall not approve the submitted documents unless the natural features and ecological relationships inherent on the site have been identified as deemed appropriate by the zoning administrator.

(g) *Special performance standards.* Proposed development or redevelopment within all environmental management areas shall be planned and undertaken in accordance with

the following standards, depending on the type(s) of natural features and resources present on the site:

- (1) Wetlands delineations shall be performed in accordance with the comprehensive onsite determination method specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, as it may be amended from time to time.
  - (2) All provisions of chapter 23.1, Wetlands, County Code, shall be observed where applicable.
  - (3) All construction within flood plain areas shall be in accordance with the requirements of section 24.1-373 of this chapter, the Uniform Statewide Building Code and any special requirements of the National Flood Insurance Program applicable to such area.
  - (4) In areas having existing or proposed slopes in excess of 20 percent, or having highly erodible soils, no roads, driveways, structures, or land disturbing activities shall be allowed except where no other practical option exists, as determined by the zoning administrator, and then, such activities shall be conducted in a manner which does not contribute to increased stormwater runoff velocities or erosion.
  - (5) Clear cutting of trees shall not be permitted. However, the zoning administrator may permit selected thinning in areas located outside of the RPA based upon best management practices and in accordance with an approved plan. The provision shall not be deemed to preclude cutting or thinning necessitated by disease or infestation and recommended by the Virginia Department of Forestry or other qualified professional in areas outside the RPA.
  - (6) For natural areas with a biodiversity ranking of B1 (outstanding significance), B2 (very high significance), or B3 (high significance), placement of a conservation easement or other development restriction within the secondary ecological boundary as defined by Technical Report 93-4, by the Division of Natural Heritage, Virginia Department of Conservation and Recreation, as may be amended from time to time, shall be shown on the plan. Biodiversity rankings between B1 and B3 indicate natural resources of global or state significance. For areas with a B4 or B5 ranking, necessary federal and state permit approvals required under the Federal Clean Water Act, Endangered Species Act, Chesapeake Bay Preservation Ordinance, or state and county wetlands laws and regulations shall suffice as proper environmental authorization.
- (h) *Special requirements for Chesapeake Bay Preservation Areas.* In addition to the requirements established above, all development within the CBPA as generally designated on the adopted CBPA Map and as specifically delineated on site per the requirements of subsection (f), above, shall conform with the following provisions.
- (1) *Lot size.* Lot size shall be subject to the requirements of the underlying zoning district(s), provided, however, that any newly created lot shall have sufficient area outside the RPA within which to accommodate the intended development in full accordance with the performance standards in this section so that no land disturbance will occur in the RPA, except for such development otherwise specifically allowed in the RPA by this section. On newly created lots, principal buildings shall be located at least ten (10) feet from the RPA buffer.
  - (2) *RPA Boundary Delineation:* The boundary of the RPA shall be delineated by temporary construction fencing on any development site subject to the provisions of this chapter. In addition, at the completion of construction, the property owner/developer shall be responsible for posting permanent signage identifying the landward limits of the RPA. The signs will be provided by the County



and shall be posted at such locations as are approved by the County and identified on the site development plan.

- (3) *CBPA Performance standards.* General performance standards for development and redevelopment in RPA's and RMA's shall be as follows:
- a. No more land shall be disturbed than is necessary to provide for the proposed use or development.
  - b. All land development shall minimize impervious cover consistent with the proposed use or development.
  - c. Existing vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed.
  - d. Any activity which will cause more than 2,500 square feet of land disturbance, including construction of single-family houses and installation of septic tanks and drainfields, shall comply with the requirements of chapter 10, Erosion and Sediment Control and all other aspects of the county development review process.
  - e. Stormwater management criteria consistent with the water quality protection provisions (4VAC 3-20-10 et seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time, shall be satisfied.
    - 1. For development, the post-development nonpoint source pollution runoff load shall not exceed the predevelopment load, based on the Chesapeake Bay default value for phosphorus loading of 0.45 pounds/acre/year and an equivalent impervious cover of sixteen percent.
    - 2. For sites within IDA's or other isolated redevelopment sites, the existing nonpoint source pollution load shall be reduced by at least ten percent. The zoning administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided, however, that in no case may the post-development nonpoint source pollution runoff load exceed the predevelopment load.
    - 3. Any maintenance, alteration, use or improvement to an existing structure, which does not increase the impervious area nor degrade the quality of surface water discharge, as determined by the zoning administrator, may be exempted from the requirements of this subsection.
  - f. The functionality and maintenance of best management practices shall be ensured by the owner or developer through a maintenance agreement, approved as to form by the county attorney, whereby the owner shall covenant to perform perpetual maintenance of any such BMP and grant authority to the county to perform such work at the owner's cost if the owner should default on his obligations. The owner or developer shall cause such agreement to be recorded by the clerk of the circuit court and provide evidence of such recordation to the zoning administrator.
  - g. All on-site sewage soil absorption systems not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years or otherwise maintained in accordance with Section 18.1-40(f) of the County Code.

- h. A secondary sewage soil absorption area with a capacity at least equal to that of the primary absorption area shall be provided for every lot proposed for development where public sanitary sewer is not available in accordance with Section 18.1-40(c) of the York County Code. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites, including the secondary sewage soil absorption area, until the lot is served by public sewer.
  - i. Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, dairy and feedlot operations or lands otherwise defined as agricultural, shall have a soil and water quality conservation assessment conducted and approved in accordance with the CBPA Regulations (9VAC10-20-120.9), as may be amended from time to time.
  - j. Silvicultural activities in the CBPA are exempt from this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the "Virginia's Forestry Best Management Practices for Water Quality" as may be amended from time to time.
  - k. Prior to initiating grading or other on-site development activities on any portion of a lot, all wetlands permits required by federal, state, and county laws and regulations shall be obtained and evidence of such submitted to the zoning administrator.
- (4) *Water Quality Impact Assessments (WQIA).*
- a. A water quality impact assessment (WQIA) shall be required for:
    - 1. Any proposed land disturbance, development or redevelopment activity within a RPA as permitted by this section;
    - 2. Any buffer modification, noncomplying use and development waiver, variance or encroachment as provided for in this section;
    - 3. Any development activity in the RMA as deemed necessary by the zoning administrator due to the unique site characteristics or intensity of the proposed use or development.
  - b. The purpose of the WQIA is to:
    - 1. Identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands in the RPA and other environmentally sensitive lands;
    - 2. Ensure that where land disturbance, development or redevelopment does take place within the RPA and other sensitive lands, it will occur on those portions of the site and in a manner that will be least disruptive to the natural functions of the RPA and other sensitive lands;
    - 3. Provide documentation for requests for development approval or administrative relief from terms of this section when warranted and in accordance with the requirements contained herein; and
    - 4. Specify mitigation that will address water quality protection.

- c. A WQIA shall include a narrative and site drawings that address the evaluation criteria and that depict, address and includes the following:
  - 1. Location of the components of the RPA;
  - 2. Location and nature of the proposed encroachment, noncomplying use or development waiver, variance or modification of the buffer area, including: type of paving material; areas of clearing; filling or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;
  - 3. Type and location of proposed best management practices and supporting calculations to mitigate any proposed encroachment and/or modification;
  - 4. Location of existing vegetation, including the number and type of trees and other vegetation in the buffer proposed to be removed to accommodate the encroachment, noncomplying use and development waiver, variance or modification, and identification of trees to remain;
  - 5. Revegetation plan that supplements the existing buffer vegetation and specifies the proposed replacement vegetation in accordance with the Buffer Guidelines.
  - 6. Erosion and sediment control and construction sequencing; and
  - 7. A copy of all required permits from all applicable agencies necessary to develop the project or a status of the acquisition of each.
- d. The WQIA shall be submitted to the zoning administrator for review and approval concurrent with the submission of applications for review and approval of site plans, subdivision plans, applications for land disturbing activity permits, building permits, buffer modification, buffer encroachment, noncomplying use and development waiver, allowable land development, redevelopment or variances.
- e. Upon completing review of a WQIA the zoning administrator will determine whether the proposed buffer modification, buffer encroachment, noncomplying use and development waiver, land development, redevelopment or application for a variance is consistent with the provisions of this section and make a finding based upon the following evaluation criteria:
  - 1. Any proposed encroachment is necessary to accommodate the proposed improvements and it is not practicable to place improvements elsewhere on the site to avoid disturbance of the buffer area;
  - 2. Impervious surface and vegetative disturbances are minimized;
  - 3. Proposed mitigation measures, including the revegetation plan and site design, result in a minimal disturbance to all components of the RPA including the 100-foot buffer area;
  - 4. Proposed mitigation measures will effectively retain all buffer area functions: pollutant removal, erosion and runoff control;

5. Proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;
  6. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.
- f. The zoning administrator may require additional mitigation where potential impacts have not been adequately addressed.
- (5) *RPA buffer area requirements.*
- a. To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a 100-foot wide buffer area of vegetation as described in the Buffer Guidelines shall be provided. The purpose of the buffer is to retard runoff, prevent erosion, and filter nonpoint source pollution from runoff and it shall be retained if present and established where it does not exist in accordance with the Buffer Guidelines.
  - b. For purposes of calculating the impact of the proposed development on water quality, the required 100-foot wide RPA buffer area shall be deemed to achieve a 75percent reduction of sediments and a 40percent reduction of nutrients.
  - c. Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions set forth in this section. Reestablishment must be accomplished in accordance with the Buffer Guidelines, as may be amended from time to time.
  - d. Permitted modifications of the buffer area:
    1. Existing woody vegetation may be removed to provide for reasonable sight lines, access paths, and shoreline erosion control best management practices, if authorized by the zoning administrator, on a case-by-case basis, upon submittal of a WQIA documenting that the RPA buffer functions will be maintained and vegetation will be replaced.
      - a) Trees may be thinned and pruned for sight lines, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff in accordance with the Buffer Guidelines.
      - b) Any access path shall be constructed and surfaced so as to effectively control erosion and aligned to minimize tree removal and environmental impact.
      - c) For approved shoreline erosion control best management practices, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice, applicable permit conditions or requirements and in accordance with the Buffer Guidelines.

- d) Dead or diseased, trees or shrubbery may be removed pursuant to sound horticultural practice in accordance with the Buffer Guidelines.
- e) The following modifications to the buffer do not require a WQIA or plan approval if performed as described in the Buffer Guidelines:
  - (i) Home landscaping such as pruning, mowing, mulching; and
  - (ii) Removal of noxious weeds provided they are replaced with vegetation equally suited for the growing environment and no land disturbance takes place.
- e. On land used for agricultural purposes, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area provided that the provisions of Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations (Section 9 VAC 10-20-130.5b 1-5 and 10-20-120.9) as they may be amended from time to time, are met.
- f. Permitted encroachments into the buffer area
  - 1. When the application of the RPA buffer would result in the loss of an adequate, as determined by the zoning administrator, buildable area on a lot or parcel legally created prior to October 1, 1989 the zoning administrator may permit an encroachment into the buffer area in accordance with following criteria:
    - a) Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities. Detached accessory structures shall not be eligible for encroachment authorizations.
    - b) Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot.
    - c) The encroachment may not extend into the seaward 50 feet of the buffer area.
    - d) Encroachments into the buffer processed through an administrative review shall be subject to the findings required by subsection (9)a but without the requirement for a public hearing, such findings to be made instead by the zoning administrator.
  - 2. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, or on a lot or parcel legally created prior to (date of adoption of this amended ordinance) and effected by a perennial stream determination, encroachments into the

buffer area may be allowed through an administrative process in accordance with the following criteria:

- a) The lot or parcel was created as a result of a legal process conducted in conformity with the County's subdivision regulations;
  - b) Conditions or mitigation measures imposed through a previously approved exception shall be met;
  - c) If the use of a BMP was previously required, the BMP shall be evaluated to determine if it continues to function effectively and if necessary the BMP shall be reestablished or repaired and maintained as required; and
  - d) The criteria of subdivision f.1. of this section shall be met.
- g. Redevelopment within IDA's may be exempt from the RPA buffer requirement in accordance with the development review process, provided that the water quality standards found in section 24.1-372(h)(2), Performance Standards, can be achieved.
- h. Nothing contained herein shall be construed to prevent an RPA buffer area from being used to fulfill minimum open space standards required elsewhere in this chapter.
- (6) Land development may be allowed in the RPA, subject to zoning administrator review and approval, and only if it is one or more of the following:
- a. Is a new or expanded water-dependent facility provided;
    - 1. It does not conflict with the comprehensive plan;
    - 2. It complies with the performance criteria set forth in this section;
    - 3. Any non-water-dependent component is located outside of the RPA; and
    - 4. Access through the RPA to the water dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.
  - b. Constitutes redevelopment outside of an IDA and there is no increase in impervious area in the RPA, no further encroachment in the RPA and all applicable erosion and sediment control and stormwater management criteria are observed.
  - c. Constitutes development or redevelopment within an IDA.
  - d. Is a new use established pursuant to subsection (5)f or is an addition or alteration to a noncomplying structure allowed pursuant to subsection (8).
  - e. Is a road or driveway crossing not exempt under subsection (7), below, and which complies with the provisions of this section, provided further:
    - 1. The zoning administrator makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA.

2. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize (i) encroachment in the RPA and (ii) adverse effects on water quality.
  3. The design and construction of the road or driveway satisfies all applicable criteria of this section, including submission of a WQIA; and
  4. The zoning administrator reviews the plan for the road or driveway proposed in or across the RPA in conjunction with a site plan, subdivision plan, and land disturbing or building permit application.
- f. Is a flood control or stormwater management facility that drains or treats water from multiple development projects or from a significant portion of a watershed provided:
1. The county has conclusively established that location of the facility within the RPA is the optimum location;
  2. The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;
  3. The facility must be consistent with a stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase I modification to the county's program;
  4. All applicable permits for construction in state or federal waters must be obtained from the appropriate local, state and federal agencies, such as the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, the York County wetlands Board and the Virginia Marine Resources Commission;
  5. Approval must be received from the County prior to construction;
  6. Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed.
  7. It is not the intent of this subdivision to allow a BMP that collects and treats runoff from only an individual lot or some portion of the lot to be located within a RPA.

(7) *Exemptions in Resource Protection Areas (RPA)*

- a. *Exemptions for public utilities, railroads, and public roads and facilities.*
1. Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law (section 10.1-560, et seq., Code of Virginia) and the Stormwater Management Act (Section 10.1-603.1 et seq, Code of Virginia) or an erosion and sediment control plan and a stormwater management plan approved by the-Virginia Department of Conservation and Recreation will be deemed to constitute compliance with this section.– The exemption of public roads is further conditioned on the following:

- a) Optimization of the public road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize encroachment in the RPA and adverse effects on water quality.
  - 2. Construction, installation, and maintenance of water, sewer, natural gas and underground telecommunications and cable television lines owned, permitted or both by a local government or regional service authority shall be exempt from the criteria in this part provided that:
    - a) To the degree possible, the location of such utilities and facilities shall be outside the RPA;
    - b) No more land shall be disturbed than is necessary to provide for the proposed utility installation;
    - c) All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and shall be designed and conducted in a manner that protects water quality; and
    - d) Any land disturbance exceeding an area of 2,500square feet shall comply with all erosion and sediment control requirements.
  - 3. Water wells, passive recreation facilities such as publicly, community or homeowner association owned boardwalks, trails, and walkways, and historic preservation and archaeological activities located in the RPA may be exempted from the provisions of this section provided that it is demonstrated to the satisfaction of the zoning administrator that:
    - a) Any required permits, except those to which this exemption specifically applies, shall have been issued;
    - b) Sufficient and reasonable proof is submitted to establish that the intended use will not cause a deterioration in water quality;
    - c) The intended use does not conflict with nearby planned or approved uses; and
    - d) Any land disturbance exceeding an area of 2,500square feet will comply with chapter 10, Erosion and Sediment Control.
    - e) It is not the intent of this subsection to exempt private boardwalks, trails or walkways on an individual lot from the requirements of this section.
- (8) *Noncomplying use and development waivers.* The lawful use of a principal building or structure which existed on September 20, 1990, or which exists at the time of any amendment to this section, and which is not in compliance with the provisions of this section or such amendment thereto, may be continued in accordance with article VIII of this chapter.

No alteration or expansion of any noncomplying structure shall be allowed except in accordance with the following:



- a. The zoning administrator may grant a noncomplying use and development waiver for legally existing principal structures on lots not in compliance with CBPA standards to provide for alterations and additions to such noncomplying structures provided that:
  - 1. There will be no increase in the nonpoint source pollution load;
  - 2. Any development or land disturbance exceeding an area of 2,500square feet complies with all erosion and sediment control requirements of chapter 10, Erosion and Sediment Control; and
  - 3. Accessory structures or additions to accessory structures shall not be authorized by noncomplying use and development waivers.
- b. An application for a noncomplying use and development waiver shall be made to the zoning administrator and shall include, for the purpose of proper enforcement of this section, the following information:
  - 1. Name and address of applicant and property owner;
  - 2. Legal description of the property and type of proposed use and development;
  - 3. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the resource protection area;
  - 4. Location and description of any existing private water supply or sewage disposal system; and
  - 5. A WQIA, BMP plan and buffer restoration plan as deemed necessary by the zoning administrator.
- c. A noncomplying use and development waiver shall become null and void five years from the date issued if no substantial work, as determined by the zoning administrator, has commenced.
- e. Noncomplying use and development waivers for legally existing principal structures processed through an administrative review of the application shall be subject to the findings required by subsection (9)a, such findings to be made by the zoning administrator, but without the requirement for a public hearing.

(9) *Variances.*

- a. Variances to the CBPA requirements may be granted provided that a finding is made that:
  - 1. The requested variance is the minimum necessary to afford relief;
  - 2. Granting the variance will not confer upon the applicant any special privileges that are denied to other property owners who are subject to these provisions and similarly situated;
  - 3. The variance is in harmony with the purpose and intent of the CBPA Act and is not of substantial detriment to water quality;
  - 4. The variance request is not based upon conditions or circumstances that are self-created or self-imposed.

5. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality; and
  6. Other findings, as appropriate and required by the county, are met.
- b. Variances to the CBPA requirements of section 24.1-372(h) (3), (4), (5), (6) and/or (7) shall be made by application to the board of zoning appeals. The board of zoning appeals shall identify the impact of the proposed variance on water quality and on lands within the RPA based on the natural resources inventory, mitigation measures and WQIA which complies with the provisions of this section and which shall be submitted by the applicant at the time of application.
  - c. The board of zoning appeals shall review the application for a variance and the submitted natural resources inventory and WQIA and may grant a variance to the requirements provided the above findings are made.
  - d. In granting a variance, the board of zoning appeals may impose reasonable and appropriate conditions as the board deems necessary to further the purpose and intent of this section and the Chesapeake Bay Preservation Act.
- (10) *Violations.*
- a. Any person who engages in development or redevelopment within a CBPA or modifies the buffer within a RPA without first receiving approval for such activity as prescribed by this section shall be in violation of this section.
  - b. Any person who violates any conditions of an allowed encroachment, buffer modification, noncomplying use and development waiver, variance, exemption or permitted activity or exceeds the scope of any approval of any authorized activity or who fails to comply with any other provision of this section shall be in violation of this section.
- (11) *Civil Penalties*
- a. Any person who violates any provision of this section or violates or fails, neglects, or refuses to obey any county notice, order, rule, regulation, or variance or permit condition authorized under this section shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA therein, in such a manner as the court may direct by order, except that where the violator is the county itself or its agent, the court shall direct the penalty to be paid into the state treasury.
  - b. With the consent of any person who violates any provision of this section or violates or fails, neglects, or refuses to obey any county notice, order, rule, regulation, or variance or permit condition authorized under this section, the county may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA, except that

where the violator is the county itself or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subdivision 1 of this subsection. Civil charges may be in addition to the cost of any restoration required or ordered by the county.

On roll call the vote was:

Yea:	(4)	Shepperd, Zaremba, Wiggins, Burgett
Nay:	(1)	Noll

Mr. Shepperd then moved the adoption of proposed Resolution R03-192 that reads:

A RESOLUTION TO APPROVE THE CHEASPEAKE BAY PRESERVATION AREA BUFFER GUIDELINES TO BE USED TO SUPPLEMENT THE PROVISIONS OF SECTION 24.1-372 OF THE YORK COUNTY ZONING ORDINANCE

WHEREAS, the Board of Supervisors has adopted the amendments proposed in Application No. ZT-80-03 to conform Section 24.1-372 – EMA – Environmental Management Area Overlay District to the regulatory and policy guidance adopted by the Chesapeake Bay Local Assistance Board; and

WHEREAS, in an effort to standardize implementation of the new requirements and assist applicants and property owners in achieving compliance with the required standards, the staff has recommended the adoption of a companion document entitled Chesapeake Bay Preservation Area Buffer Guidelines, dated November 5, 2003; and

WHEREAS, the Board has determined that these Guidelines will ensure the consistent and appropriate implementation of the County's Chesapeake Bay Preservation Area requirements;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of December, 2003, that it does hereby approved the document entitled Chesapeake Bay Preservation Area Buffer Guidelines, dated November 5, 2003.

BE IT FURTHER RESOLVED that said Guidelines shall provide guidance in the administration and application of the Chesapeake Bay Preservation Area requirements and shall be subject to the procedures for interpretation and amendment as set forth in Section 24.1-372(e) of the York County Zoning Ordinance.

On roll call the vote was:

Yea:	(4)	Zaremba, Wiggins, Shepperd, Burgett
Nay:	(1)	Noll

APPLICATION NO. ZT-79-03, YORK COUNTY BOARD OF SUPERVISORS

Mr. Carter gave a presentation on proposed Ordinance No. 03-43 to amend the York County Zoning Ordinance to revise the minimum principal building spacing standards to require a minimum separation of 20 feet in open space (cluster) subdivisions. He explained that this item was tabled at a previous meeting so that the reasons for the recommendations could be further discussed. He noted that the recommendations were primarily for fire safety as recommended by the Department of Fire and Life Safety. He then recommended approval of proposed Ordinance No. 03-43.

Mr. Zaremba referred to the 15-foot separation as opposed to the 20-foot separation. He asked if these offsets are from someone's property line.

Mr. Carter stated that the current standards state that buildings must be separated by 20 feet, or less if approved by the fire department. He then explained how the buildings must be set on the property.

Mr. Zaremba asked for a practical difference between having a 20-foot separation versus a 15-foot separation.

Mr. Carter stated it should not have any impact on how many homes can be put on a piece of property; it may have some impact on the dimension of the homes.

Discussion followed on building spacing standards.

Mr. Wiggins stated he was concerned because there was a project on Denbigh Boulevard that would be affected by this change. He stated the developer would not be able to put larger houses on smaller lots nor could it be done by withholding side yards as proposed. He stated he would like to see the Board keep the option open to make changes if it becomes available. He strongly urged the Board to go with 15 feet for a separation, or a maximum of 7 ½ feet on each side, as recommended by the Peninsula Home Builders.

Mr. Wiggins then made a motion to amend the proposed 10 feet to 7 ½ feet on each side.

On roll call the vote was:

Yea:	(1)	Wiggins
Nay:	(4)	Noll, Shepperd, Zaremba, Burgett

Mrs. Noll then moved proposed Ordinance 03-43 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-79-03, YORK COUNTY BOARD OF SUPERVISORS, WHICH PROPOSES AMENDMENT OF SECTION 24.1-402, STANDARDS FOR OPEN SPACE DEVELOPMENT (CLUSTER TECHNIQUES), OF CHAPTER 24.1, ZONING (YORK COUNTY CODE) TO REVISE THE MINIMUM PRINCIPAL BUILDING SPACING STANDARDS TO REQUIRE A MINIMUM SEPARATION OF 20 FEET

WHEREAS, this application was sponsored by the Board of Supervisors after determining that principal building separations of less than twenty (20) feet can be detrimental to community character, can limit access to rear yard areas, can contribute to a reduction in the amount of open space and pervious surface on a property, and can create increased risks and resource requirements for emergency services responses; and

WHEREAS, the application has been referred to the Planning Commission for review and recommendation in accordance with applicable procedures; and

WHEREAS, the Commission has conducted a duly advertised public hearing on the application and has recommended approval of the proposed amendments; and

WHEREAS, the Board has considered the recommendations of the Commission and has determined that amendment of the County's cluster development provisions would be appropriate and consistent with good zoning practice.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors, this the 16th day of December, 2003, that it does hereby approve Application No. ZT-79-03 to amend Section 24.1-402 of the Zoning Ordinance to establish an absolute minimum spacing requirements for principal buildings located in cluster (open space) developments, as set out below;

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**Sec. 24.1-402. Standards for open space development (cluster techniques).**

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(c) *Yard, size and dimension requirements.*

- (1) There are no lot width or area requirements.
- (2) The above notwithstanding, any lots abutting the exterior boundary of the open space development shall be of the same size as would be required of conventional development unless the abutting development shall have been developed as an open space development. A lot shall be considered to be abutting unless it is separated by an area of open space which is not less than forty-five feet (45') in width.
- (3) The minimum setback from external streets shall be that which is prescribed in the underlying zoning district.
- (4) The minimum setback from internal public streets shall be thirty feet (30') from internal private driveways or streets the setback shall be established on the plan of development.
- (5) The minimum distance between any two principal buildings within the open space development shall be twenty feet (20') . Side yard dimensions on each individual lot shall be a minimum of ten feet (10') in depth and rear yard dimensions shall be a minimum of twenty feet (20') in depth. Accessory building locations and setbacks shall be governed by the provisions set out in Section 24.1-273 of this Chapter.
- (6) Where flag lots are utilized, the "staff" portion shall be twenty feet (20') or greater in width.

On roll call the vote was:

Yea: (4) Shepperd, Zaremba, Noll, Burgett  
 Nay: (1) Wiggins

**CONSENT CALENDAR**

Mr. McReynolds pointed out that Item No. 8, proposed Resolution R03-178, was for a refund of a business license tax rather than a personal property tax as indicated, resulting in amended proposed Resolution R03-178(R).

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 6, 7, 8 and 9, respectively.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Shepperd, Burgett  
 Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

**Item No. 6. APPROVAL OF MINUTES**

The minutes of the following meetings of the York County Board of Supervisors were approved:

December 16, 2003

November 18, 2003, Adjourned Meeting.  
November 18, 2003, Regular Meeting  
November 25, 2003, Adjourned Meeting.

Item No. 7. APPROVAL OF PROCUREMENT ACTION: Resolution R03-196.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR  
TO EXECUTE AGREEMENTS FOR THE EDGEHILL NORTH  
DRAINAGE STUDY

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, that it involves the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 16th day of December, 2003, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	<u>AMOUNT</u>
Edgehill North Stormwater Drainage Study	\$129,100

Item No. 8. REFUND OF TAXES: Resolution R03-187(R).

A RESOLUTION TO AUTHORIZE PAYMENT OF A REFUND OF  
BUSINESS LICENSE TAX TO ALPHA OMEGA CHANGE ENGI-  
NEERING, LLC

WHEREAS, York County Code § 21-7.3 requires approval from the Board of Supervisors for the payment of any refund of taxes, penalties, and interest in excess of \$2,500.00; and

WHEREAS, Alpha Omega Change Engineering LLC has made application to the Commissioner of the Revenue for a refund of a portion of the business license taxes paid in 2002, due to the erroneous reporting of gross receipts actually generated within the City of Hampton and reportable to that city; and

WHEREAS, the Request for Tax Refund has been approved and recommended by the Commissioner of the Revenue, the Treasurer, and the County Attorney.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of December, 2003, that the Treasurer is authorized to refund to Alpha Omega Change Engineering LLC business license taxes in the amount of \$6,120.50, plus accrued interest in the amount of \$1,002.23, for a total refund of \$7,122.73.

Item No. 9. COMMENDATION OF VICTOR F. PAGE: Resolution R03-193.

A RESOLUTION TO COMMEND VICTOR F. PAGE, UTILITIES  
TRADES MECHANIC, ON THE OCCASION OF HIS RETIREMENT

WHEREAS, Victor F. Page, began employment August 5, 1986, and on November 30, 2003, is retiring from his present position as Utilities Trades Mechanic after 17 years of service; and

WHEREAS, Mr. Page's services and considerable talents helped to improve the quality

of life for the residents of York County; and

WHEREAS, Mr. Page worked diligently to assure that the citizens of the County were provided with reliable utility facilities; and

WHEREAS, Mr. Page during his years with the Division of Utilities Operations and Engineering was dedicated to insuring that the long term needs of the County's sanitary sewer infrastructure was operated and maintained with class one reliability in accordance with Federal, State and local regulations;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, that Victor F. Page be, and hereby is, commended for his commitment throughout the past 17 years.

BE IT FURTHER RESOLVED that at this time of his retirement, an expression of appreciation be conveyed to Mr. Page on behalf of the County of York.

BE IT STILL FURTHER RESOLVED that the Board of Supervisors offers the very best wishes to him for a pleasurable retirement.

**CLOSED MEETING.** At 9:06 p.m. Mr. Shepperd moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions and the appointment of specific public officers; Section 2.2-3711(a)(5) pertaining to a prospective business or industry or expansion of an existing business of industry where no previous announcement has been made; Section 2.2-3711(a)(7) to consult with legal counsel on a specific legal matter requiring the provision of legal advice by counsel.

On roll call the vote was:

Yea:	(5)	Zaremba, Wiggins, Shepperd, Noll, Burgett
Nay:	(0)	

Meeting Reconvened. At 10:10 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REGARDING MEETING IN CLOSED MEETING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of December, 2003, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

December 16, 2003

Yea: (5) Wiggins, Shepperd, Zaremba, Noll, Burgett  
Nay: (0)

APPOINTMENT TO THE TRANSPORTATION SAFETY COMMISSION

Mrs. Noll moved the adoption of proposed Resolution R03-198 that reads:

A RESOLUTION TO APPOINT TWO MEMBERS TO THE YORK  
COUNTY TRANSPORTATION SAFETY COMMISSION

WHEREAS, Spindler Krause, Jr., and J. Michael Reames will complete their terms on the York County Transportation Safety Commission on December 31, 2003; and

WHEREAS, Mr. Krause wishes to be considered for reappointment and Mr. Reames does not wish to be considered for reappointment;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of December, 2003, that the following individuals be, and they are hereby, appointed to serve on the York County Transportation Safety Commission for a term to begin on January 1, 2004, and expire on December 31, 2006:

Spindler Krause, Jr.

Wilfred Whiting

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Wiggins, Burgett  
Nay: (0)

APPOINTMENT TO THE YORK COUNTY EMPLOYEE GRIEVANCE PANEL

Mr. Shepperd moved the adoption of proposed Resolution R03-199 that reads:

A RESOLUTION TO APPOINT A NEW MEMBER TO THE YORK  
COUNTY EMPLOYEE GRIEVANCE PANEL

WHEREAS, Mr. James W. Thornton's term on the Employee Grievance Panel will expire on December 31, 2003; and

WHEREAS, Mr. Thornton is eligible for reappointment and has indicated that he desires to continue to serve on the Employee Grievance Panel; and

WHEREAS, the Board has reviewed and considered Mr. Thornton's application as well as the applications of other citizens interested in serving in this capacity;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 16<sup>th</sup> day of December, 2003, that James W. Thornton be appointed to the York County Employee Grievance Panel for a three-year term to begin January 1, 2003, and expire December 31, 2005.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Burgett  
Nay: (0)



**FOOD BANK CONTRIBUTION** (Not on Agenda)

By consensus, the Board agreed to make a \$3,000 donation to the Peninsula Food Bank from the contingency reserve fund.

Meeting Adjourned. At 10:23 p.m. Mr. Wiggins moved that the meeting be adjourned sine die.

On roll call the vote was:

Yea:	(5)	Noll, Wiggins, Shepperd, Zaremba, Burgett
Nay:	(0)	

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James O. McReynolds, Clerk  
York County Board of Supervisors

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James S. Burgett, Chairman  
York County Board of Supervisors